



FEDERAL ELECTION COMMISSION
Washington, DC 20463

MEMORANDUM

TO: THE COMMISSION
STAFF DIRECTOR
GENERAL COUNSEL
FEC PRESS OFFICE
FEC PUBLIC DISCLOSURE *MWD*

FROM: COMMISSION SECRETARY

DATE: OCTOBER 3, 2006

SUBJECT: COMMENT ON DRAFT AO 2006-24

Transmitted herewith is a timely submitted comment by Donald F. McGahn II, Counsel for the Illinois Republican Party and the National Republican Congressional Committee, regarding the above-captioned matter.

Proposed Advisory Opinion 2006-24 is on the agenda for Wednesday, October 4, 2006.

Attachment

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October 3, 2006

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2006 OCT -3 A 11:53

Lawrence H. Norton, Esquire
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: Comments on Draft AO 2006-24

Dear Mr. Norton:

By and through the undersigned counsel, the Illinois Republican Party and the National Republican Congressional Committee hereby file these comments on the Commission's alternative draft Advisory Opinions 2006-24, in support of Draft B, and in opposition to Draft A.

Draft B accurately states the law applicable to election recounts, certainly prior to the enactment of BCRA. Draft B also explains in great detail why BCRA did not alter the legal landscape with respect to recounts. Ultimately, as noted in Draft B, "[t]he Commission's treatment of recount funds over the past 30 years, based on the rationale that recounts are not 'elections,' is well known by Congress." Yet, despite this three-decades of clear, consistent treatment (which included not only the advisory opinions cited in Draft B, but also numerous recounts conducted consistent with this treatment with the full knowledge of Congress), there is absolutely nothing in either the language of BCRA or its scant legislative history that demonstrates any sort of desire to alter the legal landscape. Thus, as noted in Draft B, the Commission's "recount regulations at 11 CFR 100.91 and 100.51 [are] valid and enforceable and unaffected by BCRA."

Accordingly, both the Illinois Republican Party and the National Republican Congressional Committee ask that the Commission adopt Draft B.

Respectfully,

A handwritten signature in black ink, appearing to read "D. McGahn II", with a stylized flourish at the end.

Donald F. McGahn II

Counsel for the Illinois Republican
Party and the National Republican
Congressional Committee